IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

Crl.MC.No. 1687 of 2007()

CC.437/2000 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PATHANAMTHITTA

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PETITIONER/ACCUSED:

G.KANAKARAJAN,
S/O.K.V.GOPALAKRISHNAN,
CHEMPIL HOUSE, PERUNNA EAST,
CHANGANACHEERY, KOTTAYAM.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS/COMPLAINANT & STATE:

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1. PHILIPOSE MATHAI,
ATTATHARAYIL HOUSE,
KOZHENCHERRY,
KOCHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT.

2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1687 of 2007

Dated this the 25th day of May 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The verdict of guilty and conviction have now become final. The sentence has been modified by this court in revision.

2. The petitioner has come to this court with this petition under Section 482 Cr.P.C to apprise this court of the fact that the complainant and the accused have settled their disputes after the revision was disposed of. The petitioner wants this court to invoke the dictum in Sabu George v. Home Secretary [2007(1) KLT 982] and to set aside the verdict of guilty, conviction and sentence imposed on the petitioner.

3. The petitioner faces sentence of imprisonment till rising of court. There is a further direction to pay an amount of Rs.1,30,000/- as compensation and in default to undergo S.I for a period of two months. The compensation amount was directed to be released to the respondent/complainant.

4. The petitioner does not, in this case, face the prospect of any deterrent substantive sentence of imprisonment. The provisions

of Section 482 Cr.P.C were invoked in Sabu George v. Home Secretary [2007(1) KLT 982] considering the unjust consequence of incarceration in prison which the accused in that case faced, if the composition were not accepted. In this case there is only a sentence of imprisonment till rising of court. There is also a direction to pay compensation. The direction was was only to pay the amount. It is submitted that the payment has been made. If the payment has been made, the fact can be reported to the learned Magistrate and thereupon there can be no question of executing any default sentence. The position has been made clear in Girish v. Muthoot Capital Service (P) Ltd. [2007(1) KLT 16]. Of course, there is the observation that the compensation amount shall be released to the respondent/complainant. It can only mean that in the event of deposit the same must be released to the complainant and not that the amount of compensation has got to be deposited invariably in court.

5. With the above clarification/observation, this Criminal Miscellaneous Case is dismissed.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007